

Senate Study Bill 1297

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CO=CHAIRPERSON BOLKCOM)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to property taxation by modifying property
2 assessment guidelines and by creating a property assessment
3 appeal board to hear appeals of the actions of local boards of
4 review.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 3485SC 81
7 sc/cf/24

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1 1 Section 1. NEW SECTION. 421.1A PROPERTY ASSESSMENT
1 2 APPEAL BOARD.
1 3 1. A statewide property assessment appeal board is created
1 4 for the purpose of establishing a consistent, fair, and
1 5 equitable property assessment appeal process. The statewide
1 6 property assessment appeal board is established within the
1 7 department of revenue for administrative and budgetary
1 8 purposes. The board's principal office shall be in the office
1 9 of the department of revenue in the capital of the state.
1 10 2. a. The property assessment appeal board shall consist
1 11 of three members appointed to staggered six-year terms,
1 12 beginning and ending as provided in section 69.19, by the
1 13 governor and subject to confirmation by the senate. Subject
1 14 to confirmation by the senate, the governor shall appoint from
1 15 the members a chairperson of the board to a two-year term.
1 16 Vacancies on the board shall be filled for the unexpired
1 17 portion of the term in the same manner as regular appointments
1 18 are made. The term of office for the initial board shall
1 19 begin January 1, 2007.
1 20 b. Each member of the property assessment appeal board
1 21 shall be qualified by virtue of at least two years' experience
1 22 in the area of government, corporate, or private practice
1 23 relating to property appraisal and property tax
1 24 administration. One member of the board shall be a certified
1 25 real estate appraiser or hold a professional appraisal
1 26 designation, one member shall be an attorney practicing in the
1 27 area of state and local taxation or property tax appraisals,
1 28 and one member shall be a professional with experience in the
1 29 field of accounting or finance and with experience in state
1 30 and local taxation matters. No more than two members of the
1 31 board may be from the same political party as that term is
1 32 defined in section 43.2.
1 33 c. The property assessment appeal board shall organize by
1 34 appointing an executive secretary who shall take the same oath
1 35 of office as the members of the board. The board shall set
2 1 the salary of the executive secretary within the limits of the
2 2 pay plan for exempt positions provided for in section 8A.413,
2 3 subsection 2. The board may employ additional personnel as it
2 4 finds necessary.
2 5 3. At the election of a property owner or aggrieved
2 6 taxpayer or an appellant described in section 441.42, the
2 7 property assessment appeal board shall review any final
2 8 decision, finding, ruling, determination, or order of a local
2 9 board of review relating to protests of an assessment,
2 10 valuation, or application of an equalization order.
2 11 4. The property assessment appeal board may do all of the
2 12 following:
2 13 a. Affirm, reverse, or modify a final decision, finding,
2 14 ruling, determination, or order of a local board of review.

2 15 b. Order the payment or refund of property taxes in a
2 16 matter over which the board has jurisdiction.
2 17 c. Grant other relief or issue writs, orders, or
2 18 directives that the board deems necessary or appropriate in
2 19 the process of disposing of a matter over which the board has
2 20 jurisdiction.

2 21 d. Subpoena documents and witnesses and administer oaths.
2 22 e. Adopt administrative rules pursuant to chapter 17A for
2 23 the administration and implementation of its powers, including
2 24 rules for practice and procedure for protests filed with the
2 25 board, the manner in which hearings on appeals of assessments
2 26 shall be conducted, filing fees to be imposed by the board,
2 27 and for the determination of the correct assessment of
2 28 property which is the subject of an appeal.

2 29 f. Adopt administrative rules pursuant to chapter 17A
2 30 necessary for the preservation of order and the regulation of
2 31 proceedings before the board, including forms or notice and
2 32 the service thereof, which rules shall conform as nearly as
2 33 possible to those in use in the courts of this state.

2 34 5. The property assessment appeal board shall employ a
2 35 competent attorney to serve as its general counsel, and
3 1 assistants to the general counsel as it finds necessary for
3 2 the full and efficient discharge of its duties,
3 3 notwithstanding section 13.7. The general counsel is the
3 4 attorney for, and legal advisor of, the board. The general
3 5 counsel or an assistant to the general counsel shall provide
3 6 the necessary legal advice to the board in all matters and
3 7 shall represent the board in all actions instituted in a court
3 8 challenging the validity of a rule or order of the board. The
3 9 general counsel shall devote full time to the duties of the
3 10 office. During employment as general counsel to the board,
3 11 the counsel shall not be a member of a political committee,
3 12 contribute to a political campaign, participate in a political
3 13 campaign, or be a candidate for partisan political office.

3 14 6. The members of the property assessment appeal board
3 15 shall receive a salary commensurate with the salary of a
3 16 district judge. The members of the board, any administrative
3 17 law judges, and any employees of the board, when required to
3 18 travel in the discharge of official duties, shall be paid
3 19 their actual and necessary expenses incurred in the
3 20 performance of duties.

3 21 Sec. 2. Section 428.4, unnumbered paragraph 1, Code 2005,
3 22 is amended to read as follows:

3 23 Property shall be assessed for taxation each year. Real
3 24 estate shall be listed and assessed in 1981 and every two
3 25 years thereafter. The assessment of real estate shall be the
3 26 value of the real estate as of January 1 of the year of the
3 27 assessment. The year 1981 and each odd-numbered year
3 28 thereafter shall be a reassessment year. In any year, after
3 29 the year in which an assessment has been made of all the real
3 30 estate in an assessing jurisdiction, the assessor shall value
3 31 and assess or revalue and reassess, as the case may require,
3 32 any real estate that the assessor finds was incorrectly valued
3 33 or assessed, or was not listed, valued, and assessed, in the
3 34 assessment year immediately preceding, also any real estate
3 35 the assessor finds has changed in value subsequent to January
4 1 1 of the preceding real estate assessment year. However, a
4 2 percentage increase on a class of property shall not be made
4 3 in a year not subject to an equalization order unless ordered
4 4 by the department of revenue. The assessor shall determine
4 5 the actual value and compute the taxable value thereof as of
4 6 January 1 of the year of the revaluation and reassessment.
4 7 The assessment shall be completed as specified in section
4 8 441.28, but no reduction or increase in actual value shall be
4 9 made for prior years. If an assessor makes a change in the
4 10 valuation of the real estate as provided for, sections 441.23,
4 11 441.37, 441.37A, 441.38 and 441.39 apply.

4 12 Sec. 3. Section 441.19, subsection 4, Code 2005, is
4 13 amended to read as follows:

4 14 4. The supplemental returns ~~herein~~ provided for in this
4 15 section shall be preserved in the same manner as assessment
4 16 rolls, but shall be confidential to the assessor, board of
4 17 review, property assessment appeal board, or director of
4 18 revenue, and shall not be open to public inspection, but any
4 19 final assessment roll as made out by the assessor shall be a
4 20 public record, provided that such supplemental return shall be
4 21 available to counsel of either the person making the return or
4 22 of the public, in case any appeal is taken to the board of
4 23 review, to the property assessment appeal board, or to the
4 24 court.

4 25 Sec. 4. Section 441.21, subsection 1, Code 2005, is

4 26 amended by adding the following new paragraph:

4 27 NEW PARAGRAPH. h. The assessor shall determine the value
4 28 of real property in accordance with rules adopted by the
4 29 department of revenue and in accordance with forms and
4 30 guidelines contained in the real property appraisal manual
4 31 prepared by the department as updated from time to time. Such
4 32 rules, forms, and guidelines shall not be inconsistent with or
4 33 change the means, as provided in this section, of determining
4 34 the actual, market, taxable, and assessed values. If the
4 35 director of revenue determines that an assessor has willfully
5 1 disregarded the rules of the department relating to valuation
5 2 of property or has willfully disregarded the forms and
5 3 guidelines contained in the real property appraisal manual,
5 4 the department shall take steps to withhold the reimbursement
5 5 payment authorized in section 425.1 to the county or city, as
5 6 applicable, until the director of revenue determines that the
5 7 assessor is in compliance. The department shall adopt rules
5 8 relating to application of this paragraph.

5 9 Sec. 5. Section 441.21, subsection 2, Code 2005, is
5 10 amended to read as follows:

5 11 2. In the event market value of the property being
5 12 assessed cannot be readily established in the foregoing
5 13 manner, then the assessor may determine the value of the
5 14 property using the other uniform and recognized appraisal
5 15 methods including its productive and earning capacity, if any,
5 16 industrial conditions, its cost, physical and functional
5 17 depreciation and obsolescence and replacement cost, and all
5 18 other factors which would assist in determining the fair and
5 19 reasonable market value of the property but the actual value
5 20 shall not be determined by use of only one such factor. The
5 21 following shall not be taken into consideration: Special
5 22 value or use value of the property to its present owner, and
5 23 the good will or value of a business which uses the property
5 24 as distinguished from the value of the property as property.
5 25 However, in assessing property that is rented or leased to
5 26 low-income individuals and families as authorized by section
5 27 42 of the Internal Revenue Code, as amended, and which section
5 28 limits the amount that the individual or family pays for the
5 29 rental or lease of units in the property, the assessor shall
5 30 use the productive and earning capacity from the actual rents
5 31 received as a method of appraisal and shall take into account
5 32 the extent to which that use and limitation reduces the market
5 33 value of the property. The assessor shall not consider any
5 34 tax credit equity or other subsidized financing as income
5 35 provided to the property in determining the assessed value.
6 1 The property owner shall notify the assessor when property is
6 2 withdrawn from section 42 eligibility under the Internal
6 3 Revenue Code. The property shall not be subject to section 42
6 4 assessment procedures for the assessment year for which
6 5 section 42 eligibility is withdrawn. This notification must
6 6 be provided to the assessor no later than March 1 of the
6 7 assessment year or the owner will be subject to a penalty of
6 8 five hundred dollars for that assessment year. The penalty
6 9 shall be collected at the same time and in the same manner as
6 10 regular property taxes. Upon adoption of uniform rules by the
6 11 ~~revenue~~ department of revenue or succeeding authority covering
6 12 assessments and valuations of such properties, ~~said the~~
6 13 valuation on such properties shall be determined in accordance
6 14 ~~therewith with such rules and in accordance with forms and~~
6 15 ~~guidelines contained in the real property appraisal manual~~
6 16 ~~prepared by the department as updated from time to time for~~
6 17 assessment purposes to assure uniformity, but such rules,
6 18 ~~forms, and guidelines~~ shall not be inconsistent with or change
6 19 the foregoing means of determining the actual, market, taxable
6 20 and assessed values.

6 21 Sec. 6. Section 441.28, Code 2005, is amended to read as
6 22 follows:

6 23 441.28 ASSESSMENT ROLLS == CHANGE == NOTICE TO TAXPAYER.

6 24 The assessment shall be completed not later than April 15
6 25 each year. If the assessor makes any change in an assessment
6 26 after it has been entered on the assessor's rolls, the
6 27 assessor shall note on ~~said the~~ roll, together with the
6 28 original assessment, the new assessment and the reason for the
6 29 change, together with the assessor's signature and the date of
6 30 the change. Provided, however, in the event the assessor
6 31 increases any assessment the assessor shall give notice in
6 32 writing thereof to the taxpayer by mail prior to the meeting
6 33 of the board of review. No changes shall be made on the
6 34 assessment rolls after April 15 except by order of the board
6 35 of review ~~or of the property assessment appeal board,~~ or by
7 1 decree of court.

7 2 Sec. 7. Section 441.35, unnumbered paragraph 2, Code 2005,
7 3 is amended to read as follows:

7 4 In any year after the year in which an assessment has been
7 5 made of all of the real estate in any taxing district, ~~it~~
7 6 ~~shall be the duty of the board of review to shall~~ meet as
7 7 provided in section 441.33, and where ~~it the board~~ finds the
7 8 same has changed in value, ~~to the board shall~~ revalue and
7 9 reassess any part or all of the real estate contained in such
7 10 taxing district, and in such case, ~~it the board~~ shall
7 11 determine the actual value as of January 1 of the year of the
7 12 revaluation and reassessment and compute the taxable value
7 13 thereof, ~~and any.~~ Any aggrieved taxpayer may petition for a
7 14 revaluation of the taxpayer's property, but no reduction or
7 15 increase shall be made for prior years. If the assessment of
7 16 any such property is raised, or any property is added to the
7 17 tax list by the board, the clerk shall give notice in the
7 18 manner provided in section 441.36, ~~provided, however, that,~~
7 19 However, if the assessment of all property in any taxing
7 20 district is raised, the board may instruct the clerk to give
7 21 immediate notice by one publication in one of the official
7 22 newspapers located in the taxing district, and such published
7 23 notice shall take the place of the mailed notice provided for
7 24 in section 441.36, but all other provisions of ~~said that~~
7 25 section shall apply. The decision of the board as to the
7 26 foregoing matters shall be subject to appeal to the property
7 27 assessment appeal board within the same time and in the same
7 28 manner as provided in section 441.37A and to the district
7 29 court within the same time and in the same manner as provided
7 30 in section 441.38.

7 31 Sec. 8. NEW SECTION. 441.37A APPEAL OF PROTEST TO
7 32 PROPERTY ASSESSMENT APPEAL BOARD.

7 33 1. For the assessment year beginning January 1, 2007, and
7 34 all subsequent assessment years, appeals may be taken from the
7 35 action of the board of review with reference to protests of
8 1 assessment, valuation, or application of an equalization order
8 2 to the property assessment appeal board created in section
8 3 421.1A. However, a property owner or aggrieved taxpayer or an
8 4 appellant described in section 441.42 may bypass the property
8 5 assessment appeal board and appeal the decision of the local
8 6 board of review to the district court pursuant to section
8 7 441.38. For an appeal to the property assessment appeal board
8 8 to be valid, written notice must be filed by the party
8 9 appealing the decision with the executive secretary of the
8 10 property assessment appeal board within twenty days after the
8 11 date the board of review's letter of disposition of the appeal
8 12 is postmarked to the party making the protest. The written
8 13 notice of appeal shall include a petition setting forth the
8 14 basis of the appeal and the relief sought. No new grounds in
8 15 addition to those set out in the protest to the local board of
8 16 review as provided in section 441.37 can be pleaded, but
8 17 additional evidence to sustain those grounds may be
8 18 introduced. The assessor shall have the same right to appeal
8 19 to the assessment appeal board as an individual taxpayer,
8 20 public body, or other public officer as provided in section
8 21 441.42.

8 22 Filing of the written notice of appeal and petition with
8 23 the executive secretary of the property assessment appeal
8 24 board shall preserve all rights of appeal of the appellant,
8 25 except as otherwise provided in subsection 2. A copy of the
8 26 appellant's written notice of appeal and petition shall be
8 27 mailed by the executive secretary of the property assessment
8 28 appeal board to the local board of review whose decision is
8 29 being appealed. In all cases where a change in assessed
8 30 valuation of one hundred thousand dollars or more is
8 31 petitioned for, the local board of review shall mail a copy of
8 32 the written notice of appeal and petition to all affected
8 33 taxing districts as shown on the last available tax list.

8 34 2. A party to the appeal may request a hearing or the
8 35 appeal may proceed without a hearing. If a hearing is
9 1 requested, the appellant and the local board of review from
9 2 which the appeal is taken shall be given at least thirty days'
9 3 written notice by the property assessment appeal board of the
9 4 date the appeal shall be heard and the local board of review
9 5 may be present and participate at such hearing. Notice to all
9 6 affected taxing districts shall be deemed to have been given
9 7 when written notice is provided to the local board of review.
9 8 Failure by the appellant to appear at the property assessment
9 9 appeal board hearing shall be grounds for dismissal of the
9 10 appeal unless a continuance is granted to the appellant. If
9 11 an appeal is dismissed for failure to appear, the property
9 12 assessment appeal board shall have no jurisdiction to consider

9 13 any subsequent appeal on the appellant's protest.
9 14 An appeal may be considered by less than a majority of the
9 15 members of the board, and the chairperson of the board may
9 16 assign members to consider appeals. Appeals to the property
9 17 assessment appeal board may also be considered by an
9 18 administrative law judge assigned by the division of
9 19 administrative hearings of the department of inspections and
9 20 appeals in accordance with section 10A.801. If a hearing is
9 21 requested, it shall be open to the public and shall be
9 22 conducted in accordance with the rules of practice and
9 23 procedure adopted by the board. However, any deliberation of
9 24 the officer considering the appeal in reaching a decision on
9 25 any appeal shall be confidential. The property assessment
9 26 appeal board, or any member of the board, or an administrative
9 27 law judge may require the production of any books, records,
9 28 papers, or documents as evidence in any matter pending before
9 29 the board that may be material, relevant, or necessary for the
9 30 making of a just decision. Any books, records, papers, or
9 31 documents produced as evidence shall become part of the record
9 32 of the appeal. Any testimony given relating to the appeal
9 33 shall be transcribed and made a part of the record of the
9 34 appeal.

9 35 3. a. The officer considering the appeal shall determine
10 1 anew all questions arising before the local board of review
10 2 which relate to the liability of the property to assessment or
10 3 the amount thereof. All of the evidence shall be considered
10 4 and there shall be no presumption as to the correctness of the
10 5 valuation of assessment appealed from. The property
10 6 assessment appeal board shall make a decision in each appeal
10 7 filed with the board. If the appeal is considered by less
10 8 than a majority of the board or by an administrative law
10 9 judge, the determination made by that person shall be
10 10 forwarded to the full board for approval, rejection, or
10 11 modification. If the initial determination is rejected by the
10 12 board, it shall be returned for reconsideration to the board
10 13 member or administrative law judge making the initial
10 14 determination. Any deliberation of the board regarding an
10 15 initial determination shall be confidential.

10 16 b. The decision of the board shall be considered the final
10 17 agency action for purposes of further appeal, except as
10 18 otherwise provided in section 441.49. The decision shall be
10 19 final unless appealed to district court as provided in section
10 20 441.38. The levy of taxes on any assessment appealed to the
10 21 board shall not be delayed by any proceeding before the board,
10 22 and if the assessment appealed from is reduced by the decision
10 23 of the board, any taxes levied upon that portion of the
10 24 assessment reduced shall be abated or, if already paid, shall
10 25 be refunded. If the subject of an appeal is the application
10 26 of an equalization order, the property assessment appeal board
10 27 shall not order a reduction in assessment greater than the
10 28 amount that the assessment was increased due to application of
10 29 the equalization order. Each party to the appeal shall be
10 30 responsible for the costs of the appeal incurred by that
10 31 party.

10 32 Sec. 9. Section 441.38, Code 2005, is amended to read as
10 33 follows:

10 34 441.38 APPEAL TO DISTRICT COURT.

10 35 1. Appeals may be taken from the action of the local board
11 1 of review with reference to protests of assessment, to the
11 2 district court of the county in which the board holds its
11 3 sessions within twenty days after its adjournment or May 31,
11 4 whichever date is later. Appeals may be taken from the action
11 5 of the property assessment appeal board to the district court
11 6 of the county where the property which is the subject of the
11 7 appeal is located within twenty days after the letter of
11 8 disposition of the appeal by the property assessment appeal
11 9 board is postmarked to the appellant. No new grounds in
11 10 addition to those set out in the protest to the local board of
11 11 review as provided in section 441.37, or in addition to those
11 12 set out in the appeal to the property assessment appeal board,
11 13 if applicable, can be pleaded, but additional evidence to
11 14 sustain those grounds may be introduced. The assessor shall
11 15 have the same right to appeal and in the same manner as an
11 16 individual taxpayer, public body or other public officer as
11 17 provided in section 441.42. Appeals shall be taken by filing
11 18 a written notice of appeal with the clerk of district court.
11 19 Filing of the written notice of appeal shall preserve all
11 20 rights of appeal of the appellant.
11 21 2. Notice of appeal shall be served as an original notice
11 22 on the chairperson, presiding officer, or clerk of the board
11 23 of review, and on the executive secretary of the property

11 24 assessment appeal board, if applicable, after the filing of
11 25 notice under subsection 1 with the clerk of district court.
11 26 Sec. 10. Section 441.39, Code 2005, is amended to read as
11 27 follows:
11 28 441.39 TRIAL ON APPEAL.
11 29 ~~The~~ If the appeal is from a decision of the local board of
11 30 review, the court shall hear the appeal in equity and
11 31 determine anew all questions arising before the board which
11 32 relate to the liability of the property to assessment or the
11 33 amount thereof. The court shall consider all of the evidence
11 34 and there shall be no presumption as to the correctness of the
11 35 valuation of assessment appealed from. If the appeal is from
12 1 a decision of the property assessment appeal board, the
12 2 court's review shall be limited to the correction of errors at
12 3 law. Its decision shall be certified by the clerk of the
12 4 court to the county auditor, and the assessor, who shall
12 5 correct the assessment books accordingly.

12 6 Sec. 11. Section 441.43, Code 2005, is amended to read as
12 7 follows:
12 8 441.43 POWER OF COURT.
12 9 Upon trial of any appeal from the action of the board of
12 10 review or of the property assessment appeal board fixing the
12 11 amount of assessment upon any property concerning which
12 12 complaint is made, the court may increase, decrease, or affirm
12 13 the amount of the assessment appealed from.

12 14 Sec. 12. Section 441.49, unnumbered paragraph 5, Code
12 15 2005, is amended to read as follows:
12 16 The local board of review shall reconvene in special
12 17 session from October 15 to November 15 for the purpose of
12 18 hearing the protests of affected property owners or taxpayers
12 19 within the jurisdiction of the board whose valuation of
12 20 property if adjusted pursuant to the equalization order issued
12 21 by the director of revenue will result in a greater value than
12 22 permitted under section 441.21. The board of review shall
12 23 accept protests only during the first ten days following the
12 24 date the local board of review reconvenes. The board of
12 25 review shall limit its review to only the timely filed
12 26 protests. The board of review may adjust all or a part of the
12 27 percentage increase ordered by the director of revenue by
12 28 adjusting the actual value of the property under protest to
12 29 one hundred percent of actual value. Any adjustment so
12 30 determined by the board of review shall not exceed the
12 31 percentage increase provided for in the director's
12 32 equalization order. The determination of the board of review
12 33 on filed protests is final, subject to appeal to the property
12 34 assessment appeal board. A final decision by the local board
12 35 of review, or the property assessment appeal board, if the

13 1 local board's decision is appealed, is subject to review by
13 2 the director of revenue for the purpose of determining whether
13 3 the board's actions substantially altered the equalization
13 4 order. In making the review, the director has all the powers
13 5 provided in chapter 421, and in exercising the powers the
13 6 director is not subject to chapter 17A. Not later than
13 7 fifteen days following the adjournment of the board, the board
13 8 of review shall submit to the director of revenue, on forms
13 9 prescribed by the director, a report of all actions taken by
13 10 the board of review during this session.

13 11 Sec. 13. Section 445.60, Code 2005, is amended to read as
13 12 follows:
13 13 445.60 REFUNDING ERRONEOUS TAX.
13 14 The board of supervisors shall direct the county treasurer
13 15 to refund to the taxpayer any tax or portion of a tax found to
13 16 have been erroneously or illegally paid, with all interest,
13 17 fees, and costs actually paid. A refund shall not be ordered
13 18 or made unless a claim for refund is presented to the board
13 19 within two years of the date the tax was due, or if appealed
13 20 to the board of review, the property assessment appeal board,
13 21 the state board of tax review, or district court, within two
13 22 years of the final decision.

13 23 EXPLANATION
13 24 This bill creates a statewide property assessment appeal
13 25 board to hear appeals from action taken by local boards of
13 26 review effective for the assessment year beginning January 1,
13 27 2007. However, an aggrieved taxpayer or property owner may
13 28 bypass the statewide property assessment appeal board and
13 29 appeal a decision of the local board of review directly to
13 30 district court. The bill provides that the property
13 31 assessment appeal board is created within the department of
13 32 revenue. A decision of the property assessment appeal board
13 33 may be appealed to district court.
13 34 The bill requires local assessors, when assessing property,

13 35 to use the forms and apply the guidelines contained in the
14 1 real property appraisal manual prepared by the department of
14 2 revenue. If the department determines that an assessor, when
14 3 assessing property, is willfully disregarding rules, forms,
14 4 and guidelines of the department, the department shall take
14 5 steps to withhold the county's or city's homestead property
14 6 tax credit reimbursement by the state until the assessor
14 7 complies with the rules, forms, and guidelines.
14 8 LSB 3485SC 81
14 9 sc:rj/cf/24.1